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11 ONEMAIN FINANCIAL, INC.

12  
13 **UNITED STATES DISTRICT COURT**  
14 **CENTRAL DISTRICT OF CALIFORNIA**  
15

16 WAYNE HOLLINGSWORTH,  
17 Plaintiffs,  
18 vs.

19 ONEMAIN FINANCIAL, INC.,  
20 Defendant(s).

Case No.:

**COMPLAINT AND DEMAND FOR  
JURY TRIAL FOR:**

- 21 **1. VIOLATIONS OF THE**  
22 **ROSENTHAL FAIR DEBT**  
23 **COLLECTION PRACTICES**  
24 **ACT [CAL. CIV. CODE § 1788]**
- 25 **2. VIOLATIONS OF THE**  
26 **TELEPHONE CONSUMER**  
27 **PROTECTION ACT [47 U.S.C. §**  
28 **227]**

**INTRODUCTION**

1. WAYNE HOLLINGSWORTH (Plaintiff) bring this action to secure redress from ONEMAIN FINANCIAL, INC. (Defendant) for violations of the Rosenthal Fair Debt Collection Practices Act [CAL. CIV. CODE § 1788] and for violations of the Telephone Consumer Protection Act [47 U.S.C. § 227].

1                                   **JURISDICTION AND VENUE**

2           2.       Jurisdiction in this Court is proper pursuant to 28 U.S.C. § 1331 as  
3 Plaintiff's claims arise under the laws of the United States.

4           3.       Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)  
5 because the acts and transactions alleged in this Complaint occurred here, Plaintiff  
6 resides here, and Defendant transacts business here.

7                                   **PARTIES**

8           4.       Plaintiff is an individual residing in Orange County, California.  
9 Plaintiff is a natural person from whom a debt collector seeks to collect a consumer  
10 debt which is due and owing or alleged to be due and owing from such person.

11           5.       Defendant, is a national lending institute engaged in the business of  
12 collecting debt in this state and in several other states, incorporated in the State of  
13 Delaware. The principal purpose of Defendant is the collection of debts in this  
14 state and several other states, and Defendant regularly attempts to collect debts  
15 alleged to be due another.

16                                   **FACTUAL ALLEGATIONS**

17           6.       Within one year prior to the filing of this action, Defendant contacted  
18 Plaintiff to collect money, property or their equivalent, due or owing or alleged to  
19 be due or owing from a natural person by reason of a consumer credit transaction  
20 and/or "consumer debt."

21           7.       Sometime beginning in or around October of 2015, Defendant began  
22 placing daily incessant automated collection calls to Plaintiff's cellular telephone  
23 seeking to collect past due payments from Plaintiff, despite that Plaintiff had made  
24 arrangements for a deferment agreement wherein Plaintiff's obligation to repay the  
25 consumer based personal extension of credit was to be delayed for a period of time.

26           8.       Defendant would place daily calls, often multiple calls in a single day  
27 to Plaintiff's cellular telephone ending in 1050. Defendant's calls were placed from  
28 (864) 574-6973.

1           9. Throughout October of 2015, Plaintiff answered Defendant's  
2 collection calls and advised Defendant that of the deferment agreement and that  
3 Plaintiff was not currently behind on his repayment as a result. Plaintiff also  
4 demanded that Defendant cease placing its automated collection calls to Plaintiff's  
5 cellular telephone.

6           10. Defendant refused to remove Plaintiff's number from the dialing  
7 system and continued placing its automated collection calls to Plaintiff's cellular  
8 telephone seeking repayment of the alleged debt.

9           11. Defendant continued to contact with Plaintiff with such frequency as  
10 to be unreasonable under the circumstances and to constitute harassment, calling  
11 throughout the month of October 2015 and even continuing to place its automated  
12 collection calls after Plaintiff went into a branch location and signed the deferment  
13 paperwork.

14           12. The natural and probable consequences of Defendant's conduct was  
15 to harass, oppress or abuse Plaintiff in connection with the collection of the alleged  
16 debt.

17           13. At all times relevant to this action, while conducting business in  
18 California, Defendant has been subject to, and required to abide by, the laws of the  
19 United States, which included the TCPA and its related regulations that are set forth  
20 at 47 C.F.R. § 64.1200 ("TCPA Regulations"), as well as the opinions, regulations  
21 and orders issued by the courts and the FCC implementing, interpreting and  
22 enforcing the TCPA and the TCPA regulations.

23           14. At all times relevant to this action, Defendant owned, operated and or  
24 controlled an "automatic telephone dialing system" as defined by TCPA 47 U.S.C.  
25 § 227(a)(1) that originated, routed and/or terminated telecommunications.

26           15. Within four years prior to the filing of this action, Defendant called  
27 Plaintiff at Plaintiff's cellular telephone numbers multiple times using equipment  
28 which has the capacity to store or produce telephone numbers to be called, using

1 random or sequential number generator and to dial such numbers, also known as  
2 an “automatic telephone dialing system” as defined by TCPA 47 U.S.C. §  
3 227(a)(1)(A) and (B).

4 16. Defendant never received Plaintiff’s consent to call Plaintiff on  
5 Plaintiff’s cellular telephones using an “automatic telephone dialing system” as  
6 defined in 47 U.S.C. § 227 (a)(1).

7 17. Even assuming arguendo that Defendant did have consent to call  
8 Plaintiff on Plaintiff’s cellular telephone using an ATDS, that consent was revoked  
9 by Plaintiff in October of 2015.

10 18. Defendant is not a tax exempt nonprofit organization

11 19. Defendant’s violation of the TCPA was willful. Defendant’s  
12 violation of the TCPA was willful because Plaintiff requested that Defendant cease  
13 calling Plaintiff on several occasions.

14 **FIRST CAUSE OF ACTION**

15 **(Violation of the RFDCPA, CAL. CIV. CODE § 1788)**

16 20. Plaintiff incorporates by reference all of the above paragraphs of this  
17 Complaint as though fully stated herein.

18 21. Defendant violated the RFDCPA. Defendant’s violations include, but  
19 are not limited to, the following:

20 (a) Defendant violated CAL. CIV. CODE § 1788.11(d) by causing a  
21 telephone to ring repeatedly or continuously to annoy the person called; and

22 (b) Defendant violated CAL. CIV. CODE § 1788.11(e) by communicating,  
23 by telephone or in person, with the debtor with such frequency as to be  
24 unreasonable and to constitute an harassment to the debtor under the circumstances;

25 (c) Defendant violated CAL. CIV. CODE § 1788.17 by collecting or  
26 attempting to collect a consumer debt without complying with the provisions of  
27 Sections 1692b to 1692j, inclusive, of . . . Title 15 of the United States Code (Fair  
28 Debt Collection Practices Act).

1           22. Defendant's acts, as described above, were done intentionally with the  
2 purpose of coercing Plaintiff to pay the alleged debt.

3           23. As a result of the foregoing violations of the RFDCPA, Defendant is  
4 liable to Plaintiff for actual damages, statutory damages, and attorney's fees and  
5 costs.

6                           **SECOND CAUSE OF ACTION**

7                           **(Violations of the TCPA, 47 U.S.C. § 227)**

8           24. Plaintiff incorporates by reference all of the above paragraphs of this  
9 Complaint as though fully stated herein.

10          25. Defendant violated the TCPA. Defendant's violations include, but  
11 are not limited to the following:

12           (a) Within four years prior to the filing of this action, on multiple  
13 occasions, Defendant violated TCPA 47 U.S.C. § 227 (b)(1)(A)(iii) which states in  
14 pertinent part, "It shall be unlawful for any person within the United States . . . to  
15 make any call (other than a call made for emergency purposes or made with the  
16 prior express consent of the called party) using any automatic telephone dialing  
17 system or an artificial or prerecorded voice — to any telephone number assigned  
18 to a . . . cellular telephone service . . . or any service for which the called party is  
19 charged for the call.

20           (b) Within four years prior to the filing of this action, on multiple  
21 occasions, Defendant willfully and/or knowingly contacted Plaintiffs at Plaintiffs'  
22 cellular telephone using an artificial prerecorded voice or an automatic telephone  
23 dialing system and as such, Defendant knowing and/or willfully violated the TCPA.

24          26. As a result of Defendant's violations of 47 U.S.C. § 227, Plaintiff is  
25 entitled to an award of five hundred dollars (\$500.00) in statutory damages, for  
26 each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B). If the Court finds  
27 that Defendant knowingly and/or willfully violated the TCPA, Plaintiff is entitled  
28

1 to an award of one thousand five hundred dollars (\$1,500.00), for each and every  
2 violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

3 27. Plaintiff is also entitled to seek injunctive relief prohibiting such  
4 conduct in the future.

5 **VII. PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff respectfully requests that judgment be entered  
7 against Defendant for the following:

- 8 (a) An injunction prohibiting Defendant from contacting Plaintiff on  
9 Plaintiff's cellular telephone using an automated dialing system  
10 pursuant to 47 U.S.C. § 227(b)(3)(A); and  
11 (b) Actual damages pursuant to CAL. CIV. CODE § 1788.30(a); and  
12 (c) As a result of Defendant's violations of 47 U.S.C. § 227(b)(1),  
13 Plaintiff is entitled to and requests five hundred dollars (\$500.00) in  
14 statutory damages, for each and every violation, pursuant to 47  
15 U.S.C. § 227(b)(3)(B); and  
16 (d) As a result of Defendant's willful and/or knowing violations of 47  
17 U.S.C. § 227(b)(1), Plaintiff is entitled to and requests treble  
18 damages, as provided by statute, up to one thousand five hundred  
19 dollars (\$1,500.00), for each and every violation pursuant to 47  
20 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C); and  
21 (e) Statutory damages pursuant to CAL. CIV. CODE § 1788.30(b); and  
22 (f) Costs and reasonable attorney's fees pursuant to CAL. CIV. CODE §  
23 1788.30(c); and  
24 (g) Awarding Plaintiff any pre-judgment and post-judgment interest as  
25 may be allowed under the law; and  
26 (h) For such other and further relief as the Court may deem just and  
27 proper.  
28

**DEMAND FOR JURY TRIAL**

Please take notice that Plaintiff demands a trial by jury in this action.

Dated: November 17, 2015

RESPECTFULLY SUBMITTED,  
**MARTIN & BONTRAGER, APC**

By: /s/ Nicholas J. Bontrager

Nicholas J. Bontrager  
*Attorney for Plaintiff*